

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

CLERK'S OFFICE
U.S. DISTRICT COURT
TEXAS
FILED

ORIGINAL

2020 DEC -7 PM 2: 10

Jacqueline N. Tanzy

Plaintiff

v. Chad F. Wolf, Acting Secretary
U.S. Department of Homeland Security
Defendant

RECEIVED COURT CLERK 12/07/2020
3 - 20 CV 3579-R

45D-2020-00037X
Civil Action No.

COMPLAINT

I am filing this Civil Suit with the Northern District of Texas based on the Equal Employment Opportunity Commission (EEOC) Administrative Judge's (AJ) decision with finding no discrimination, as their final action in the below matter.

① My annual Performance Plan appraisal was under rated -VS- based on the quality of work I performed, FY 2018.

② My overtime during FY 2018 was repeatedly declined causing me a loss of 40hrs of OT benefits.

I believe my initial filing documentation will show evidence I was Disparately treated & Disability Discriminated. Therefore, I ask this U.S. District Court to accept my complaint for consideration as a "de novo" review, and decision. *12-06-2020*

Thank You, Jacqueline Nicci Tanzy

* Attach additional pages as needed.

Date	<u>October 25, 2020</u>	<u>12-06-2020</u>
Signature	<u>Jacqueline N. Tanzy</u>	
Print Name	<u>Jacqueline N. Tanzy</u>	
Address	<u>P O Box 542441</u>	
City, State, Zip	<u>Grand Prairie, TX 75054</u>	
Telephone	<u>214-543-16183</u>	

Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

)
Jacqueline Tanzy,
)
)
Complainant
)
)
v.
)
Agency Case No. HS-CIS-00288-2019
EEOC Case No. 450-2020-00037X
)
)
Chad F. Wolf, Acting Secretary,
U.S. Department of Homeland Security,
)
)
)
Agency
)
)

FINAL ORDER

Pursuant to 29 C.F.R § 1614.110(a), the U.S. Department of Homeland Security (Department), Office for Civil Rights and Civil Liberties (CRCL) hereby takes final action on the above-captioned complaint by issuing a Final Order.¹ Based upon a review of the entire evidentiary record, CRCL fully implements the Equal Employment Opportunity Commission (EEOC) Administrative Judge's (AJ) decision finding no discrimination, as the final action in this matter. Pursuant to 29 C.F.R. § 1614.110(a), a notice is attached to this Decision informing Complainant of the right to appeal to the EEOC or to file a civil action in Federal District Court. Also, a copy of EEOC Form 573 is attached for Complainant's submission to the EEOC's Office of Federal Operations, should Complainant decide to file an appeal.

PROCEDURAL HISTORY

1. On November 6, 2018, Complainant initiated contact with an Equal Employment Opportunity (EEO) Counselor.

¹ Pursuant to the Homeland Security Act of 2002, *as amended*, 6 U.S.C. § 345, the Officer for Civil Rights and Civil Liberties (CRCL) shall ensure that the protection of civil rights and civil liberties is appropriately incorporated into Departmental programs and activities. On October 26, 2012, the Secretary for the Department issued Delegation Number 19003, which delegated to CRCL the authority to render final decisions on behalf of the Secretary in EEO complaints, pursuant to 29 C.F.R. § 1614.110, or administratively, when that regulation is not applicable.

2. On December 18, 2018, U.S. Citizenship and Immigration Services (USCIS) notified Complainant of the conclusion of EEO counseling and of her right to file a formal complaint.
3. On January 2, 2019, Complainant filed the formal complaint at issue.
4. On September 26, 2019, USCIS forwarded Complainant a copy of the Investigative File, and provided her with notice of her right to request a hearing before an EEOC AJ or, alternatively, to receive a Final Agency Decision (FAD).
5. On October 22, 2019, Complainant filed a request for a hearing before an EEOC AJ.
6. On August 6, 2020, an AJ from EEOC's Houston District Office issued a decision on the complaint without a hearing, pursuant to 29 C.F.R. § 1614.109(g). The AJ concluded Complainant failed to prove she was discriminated against as alleged.
7. On August 6, 2020, CRCL received the AJ's decision.

CLAIMS AT ISSUE

Whether USCIS discriminated against Complainant based on physical disability (lumbar injury, carpal tunnel syndrome, shoulder pain) and reprisal (prior EEO activity), when:

1. On October 20, 2018, management denied Complainant's request for overtime.
2. On a date uncertain, management rated Complainant's Fiscal Year 2018 performance as "Achieved Expectations" (3.2).

ANALYSIS

Initially, this Office finds that the AJ's issuance of a decision without a hearing was procedurally appropriate. *See Petty v. Dep't of Def.*, EEOC Appeal No. 01A24206 (July 11, 2003); *see also Murphy v. Dep't of the Army*, EEOC Appeal No. 01A04099 (July 11, 2003). Specifically, the AJ correctly determined an "appropriate factual record (i.e., one which contains all the information necessary to enable an accurate adjudication of the complaint on its merits)" had been developed. *Petty*, EEOC Appeal No. 01A24206. The AJ also ensured that the party opposing the ruling (i.e., Complainant) was given: (1) ample notice of the proposal to issue a decision without a hearing; (2) a comprehensive statement of the allegedly undisputed material facts; (3) the opportunity to respond to such a statement; and (4) the chance to engage in discovery before responding, if necessary. *Petty*, EEOC Appeal No. 01A24206; *see also Administrative Judge Handbook, Chapter 5*.

Upon a complete review of the entire evidentiary record, this Office also finds that the AJ correctly issued a decision without a hearing because Complainant failed to establish genuine issues of fact on several elements essential to her case, and on which she bore the burden of proof. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). Because the record did not

contain a genuine issue of material fact, this Office finds that a reasonable factfinder could not return a verdict for the party opposing summary judgment, and the Agency is entitled to judgment as a matter of law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

CONCLUSION

Based upon the full evidentiary record, CRCL fully implements the AJ's decision. Since Complainant is not the prevailing party, she is not entitled to payment of attorney's fees, costs, or compensatory damages, and no corrective action is required.



For Veronica Venture

Deputy Officer, Office for Civil Rights and Civil Liberties
Director for EEO & Diversity
Department of Homeland Security

September 8, 2020

Date

JJS

CERTIFICATE OF SERVICE

For timeliness purposes, it shall be presumed that the parties received the foregoing on the date indicated below if sent via email or within five (5) calendar days after the date indicated below if sent by regular or certified mail. I certify that the foregoing final action, appeal rights, and appeal form were provided to the following:

Jacqueline Tanzy
608 Jutland Drive
Grand Prairie, TX 75052
(Via Email: Jacqueline.N.Tanzy@uscis.dhs.gov)

Teena Mathew Makil, Esq.
Office of the Chief Counsel
U.S. Citizenship and Immigration Service
(Via Email: teena.m.makil@uscis.dhs.gov)

Nancy E. Graham, Esq.
Administrative Judge
EEOC – New Orleans Field Office
(Via Email: nancy.graham@eeoc.gov)

U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Equal Opportunity and Inclusion
EEO Complaints Resolution Division
9360 Ensign Ave. South, Suite 151
Bloomington, MN 55438
(Uploaded and Notified Via Email)


LaWanda M Brown
CROL EEO Specialist

September 9, 2020

Date

